


Rule 6005-1. Auctioneers.

(A) Contents of Application to Employ Auctioneer. Applications for court approval of the employment of an auctioneer under 11 U.S.C. § 327(a) must be substantially in conformance to the Local Form “Application for Approval of Employment of Auctioneer”. The application shall:

- (1) state that: (a) an auction is in the best interest of the estate and should generate the highest and best value for the property; and (b) the proposed auctioneer is “disinterested” within the meaning of 11 U.S.C. § 101(14) and § 327(a);
- (2) state that: (a) the proposed auctioneer was selected after consideration of competitive bids obtained from at least one other qualified auctioneer, or explain why the applicant could not or did not deem it necessary under the circumstances to obtain competitive bids; (b) the terms of any rejected bids are available upon request from the applicant; and (c) the applicant has determined that acceptance of the selected bid is in the best interest of the estate;
- (3) include: (a) a statement of the maximum amount of costs and expenses which the estate will be obligated to reimburse the auctioneer; and (b) a clear summary of the relevant terms of the employment and the proposed compensation. Applications shall not include copies of the auctioneer’s standard auction contract in lieu of this statement and summary;
- (4) be accompanied by: (a) an affidavit substantially in conformance with the Local Form “Affidavit of Auctioneer”; and (b) a proposed order granting the application substantially in conformance with the Local Form “Order Approving Employment of Auctioneer”;
- (5) include, as exhibits, copies of the appropriate license and bond required by subdivision (B) of this rule; and
- (6) include a statement whether the auctioneer maintains insurance to cover lost, stolen or damaged property.

(B) Requirements for Auctioneer. Auctioneers whose employment is proposed must (i) be licensed pursuant to Florida Statutes § 468.381 *et seq.*, or § 468.387 for out-of-state auctioneers, (ii) be covered by the Florida Auctioneer Recovery Fund as required by Florida Statute § 468.392, and (iii) must either post a blanket (or case specific) fiduciary and faithful performance bond or surety bond, issued by a surety company approved by the Department of the Treasury, in an amount not less than the maximum expected proceeds of any proposed auction or combination of auctions, if a blanket bond. The bond must be in favor of the United States of America and the original bond shall be forwarded to the United States trustee, who will maintain and safeguard the original. A copy of the bond should be provided to the trustee and should be included as an attachment to the application to employ auctioneer, as required by subdivision (A) of this rule.

 2002 Amendment: Subdivision (B) amended to delete reference to bond to reflect change in Florida Statute and to conform to United States trustee bond requirements.

(C) Compensation. Compensation may be approved by the court upon any reasonable terms and conditions negotiated with the auctioneer including a flat fee, guaranteed return, percentage of gross revenue, buyer's premium or any other reasonable method, provided that the basis for determining the fee is clearly described.

(D) Notice and Hearing. The application may be granted without notice or hearing, if the application reflects that the facts and circumstances so warrant including the size of the auction, the size of the estate, or a special need for haste. The applicant must request a hearing on the application if any aspect of the proposed employment or auction is irregular.

(E) Service of Order. Upon entry of an order approving the employment, the applicant shall serve copies of the order together with the sale notice in accordance with Bankruptcy Rules 2002(a)(2) and (c)(1) and 6004.

(F) Auctioneer's Report Summarizing Sale; Payment of Fees. Upon the completion of the auction, the auctioneer shall file with the court a report (a) summarizing the results of the auction and (b) stating the fees and expenses which will be paid in accordance with the order. Copies of the report shall be served only on the U.S. trustee, the trustee, and any other party who specifically requests a copy, or if applicable, those parties required to be served pursuant to Local Rule 2002-1(K). The auctioneer's fees and expenses may be paid without the necessity of further notice or hearing unless a party in interest files an objection to the report within 10 days after the report is filed.